

HOUSE BILL 555

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M3

2004 Regular Session
4r1002
CF 4r1001

By: **The Speaker and Minority Leader (By Request - Administration) and
Delegates Amedori, Aumann, Bates, Costa, Cryor, Dwyer, Eckardt,
Edwards, Elmore, Frank, Glassman, Haddaway, Hubbard, Jennings,
Kelly, Krebs, Malone, McComas, McConkey, McIntosh, Minnick,
O'Donnell, Sossi, Stocksdales, Stull, Walkup, Weir, Weldon, and Wood**

Introduced and read first time: February 3, 2004
Assigned to: Environmental Matters

A BILL ENTITLED

1 AN ACT concerning

2 **Water Pollution - The Chesapeake Bay Watershed Restoration Fund**

3 FOR the purpose of establishing the Chesapeake Bay Watershed Restoration Fund in
4 the Department of the Environment; authorizing the Maryland Water Quality
5 Financing Administration of the Department to award certain grants from the
6 Fund; providing for the money in the Fund to be used for grants and loans to
7 upgrade the nutrient removal technology at certain wastewater facilities to
8 achieve enhanced nutrient removal; establishing an environmental surcharge to
9 be paid by users of wastewater facilities; providing for the management of the
10 Fund; establishing a certain advisory committee; requiring certain reports by
11 certain dates; requiring the Department to adopt certain regulations;
12 authorizing the Department to adopt certain regulations relating to a certain
13 surcharge; providing for the payment of certain bond revenue to the Fund;
14 defining certain terms; providing for the staggering of the terms of certain
15 members of the Advisory Committee; and generally relating to the
16 establishment and management of the Chesapeake Bay Watershed Restoration
17 Fund.

18 BY repealing and reenacting, with amendments,
19 Article - Environment
20 Section 9-1601, 9-1604, 9-1611, 9-1616, and 9-1617
21 Annotated Code of Maryland
22 (1996 Replacement Volume and 2003 Supplement)

23 BY adding to
24 Article - Environment
25 Section 9-1605.2
26 Annotated Code of Maryland
27 (1996 Replacement Volume and 2003 Supplement)

1 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF
2 MARYLAND, That the Laws of Maryland read as follows:

3 **Article - Environment**

4 9-1601.

5 (a) Unless the context clearly requires otherwise, in this subtitle the following
6 words have the meanings indicated.

7 (b) "Administration" means the Maryland Water Quality Financing
8 Administration.

9 (C) "BIOLOGICAL NUTRIENT REMOVAL" MEANS A BIOLOGICAL NUTRIENT
10 REMOVAL TECHNOLOGY CAPABLE OF REDUCING THE NITROGEN IN WASTEWATER
11 EFFLUENT TO NOT MORE THAN 8 MILLIGRAMS PER LITER CALCULATED ON AN
12 ANNUALLY AVERAGED BASIS.

13 [(c)] (D) "Board" means the Board of Public Works.

14 [(d)] (E) "Bond" means a bond, note, or other evidence of obligation of the
15 Administration issued under this subtitle, including a bond or revenue anticipation
16 note, notes in the nature of commercial paper, and refunding bonds.

17 [(e)] (F) "Bond resolution" means the resolution or resolutions of the Director,
18 including the trust agreement, if any, authorizing the issuance of and providing for
19 the terms and conditions applicable to bonds.

20 [(f)] (G) "Borrower" means a local government or a person as defined in §
21 1-101(h) of this article who has received a loan.

22 [(g)] (H) "Director" means the Director of the Administration.

23 [(h)] (I) "Drinking Water Loan Fund" means the Maryland Drinking Water
24 Revolving Loan Fund.

25 (J) "ELIGIBLE COSTS" MEANS THOSE COSTS IDENTIFIED IN § 9-1605.2(E) OF
26 THIS SUBTITLE.

27 (K) "ENHANCED NUTRIENT REMOVAL" MEANS AN ENHANCED NUTRIENT
28 REMOVAL TECHNOLOGY CAPABLE OF REDUCING THE NITROGEN AND PHOSPHORUS
29 CONCENTRATIONS IN WASTEWATER EFFLUENT TO NOT MORE THAN 4 MILLIGRAMS
30 PER LITER TOTAL NITROGEN AND NOT MORE THAN 0.3 MILLIGRAMS PER LITER
31 TOTAL PHOSPHORUS CALCULATED ON AN ANNUALLY AVERAGED BASIS.

32 (L) "EQUIVALENT DWELLING UNIT" MEANS A MEASURE OF WASTEWATER
33 EFFLUENT WHERE ONE UNIT IS EQUIVALENT TO:

34 (1) AN AVERAGE OF 250 GALLONS OF WASTEWATER EFFLUENT PER DAY.
35 THIS AVERAGE SHALL BE DETERMINED BY THE LOCAL GOVERNMENT OR BILLING

1 AUTHORITY FOR A WASTEWATER FACILITY FOR THE CALENDAR QUARTER OR
2 BILLING CYCLE OF THE WASTEWATER FACILITY; OR

3 (2) THE TOTAL AVERAGE DAILY FLOW OF WASTEWATER EFFLUENT
4 THAT THE LOCAL GOVERNMENT OR BILLING AUTHORITY FOR A WASTEWATER
5 FACILITY DETERMINES TO BE EQUIVALENT TO THE AVERAGE DAILY FLOW OF
6 WASTEWATER EFFLUENT DISCHARGED BY A RESIDENTIAL DWELLING, AND WHICH
7 MAY NOT EXCEED 250 GALLONS.

8 [(i)] (M) "Facility" means a wastewater facility or all or a portion of a water
9 supply system as defined in § 9-201(u) of this article.

10 [(j)] (N) "Federal Safe Drinking Water Act" means Title XIV of the Public
11 Health Service Act, P.L. 93-523, as amended, 42 U.S.C. § 300f, et seq., and the rules
12 and regulations promulgated thereunder.

13 [(k)] (O) "Federal Water Pollution Control Act" means the Water Pollution
14 Control Act of 1972, P.L. 92-500, as amended, 33 U.S.C. § 1251, et seq., and rules and
15 regulations promulgated thereunder.

16 [(l)] (P) "Fund" means a fund established by this subtitle, including the Water
17 Quality Fund, the Drinking Water Loan Fund, AND THE WATERSHED RESTORATION
18 FUND.

19 (Q) "GRANT" MEANS A GRANT FROM THE ADMINISTRATION TO A GRANTEE.

20 (R) "GRANT AGREEMENT" MEANS A WRITTEN AGREEMENT BETWEEN THE
21 ADMINISTRATION AND A GRANTEE WITH RESPECT TO A GRANT.

22 (S) "GRANTEE" MEANS THE GRANT RECIPIENT.

23 [(m)] (T) "Lender" has the meaning stated in § 9-1606.1 of this subtitle.

24 [(n)] (U) "Linked deposit" has the meaning stated in § 9-1606.1 of this
25 subtitle.

26 [(o)] (V) "Linked deposit loan" has the meaning stated in § 9-1606.1 of this
27 subtitle.

28 [(p)] (W) "Linked deposit program" has the meaning stated in § 9-1606.1 of
29 this subtitle.

30 [(q)] (X) "Local government" means a county, municipal corporation, sanitary
31 district, or other State or local public entity which has authority to own or operate a
32 facility, and includes any combination of 2 or more of the foregoing, acting jointly to
33 construct or operate a facility.

34 [(r)] (Y) "Loan" means a loan from the Administration to a borrower for the
35 purpose of financing all or a portion of the cost of a wastewater facility, if the loan is

1 from the Water Quality Fund, or water supply system, if the loan is from the
2 Drinking Water Loan Fund.

3 [(s)] (Z) "Loan agreement" means a written agreement between the
4 Administration and a borrower with respect to a loan.

5 [(t)] (AA) "Loan obligation" means a bond, note, or other evidence of obligation,
6 including a mortgage, deed of trust, lien, or other security instrument, issued or
7 executed by a borrower to evidence its indebtedness under a loan agreement with
8 respect to a loan.

9 (BB) (1) "RESIDENTIAL DWELLING" MEANS A ROOM OR GROUP OF ROOMS
10 OCCUPIED AS LIVING QUARTERS BY AN INDIVIDUAL, A SINGLE FAMILY, OR OTHER
11 DISCRETE GROUP OF PERSONS WITH FACILITIES THAT ARE USED OR INTENDED TO
12 BE USED FOR LIVING, SLEEPING, COOKING, SANITATION, AND EATING, INCLUDING
13 AN APARTMENT UNIT, CONDOMINIUM UNIT, COOPERATIVE UNIT, TOWN HOUSE
14 UNIT, MOBILE HOME, OR HOUSE.

15 (2) "RESIDENTIAL DWELLING" DOES NOT INCLUDE A HOSPITAL, HOTEL,
16 MOTEL, INN, BOARDING HOUSE, CONVENT, MONASTERY, CLUB, DORMITORY, SCHOOL,
17 COLLEGE, OR SIMILAR SEASONAL, INSTITUTIONAL, OR TRANSIENT FACILITY.

18 (CC) "USER" MEANS ANY PERSON DISCHARGING TO A WASTEWATER FACILITY
19 THAT HAS A STATE OR NATIONAL POLLUTION DISCHARGE ELIMINATION SYSTEM
20 DISCHARGE PERMIT.

21 [(u)] (DD) "Wastewater Facility" means any equipment, plant, treatment works,
22 structure, machinery, apparatus, interest in land, or any combination of these, which
23 is acquired, used, constructed, or operated for the storage, collection, treatment,
24 neutralization, stabilization, reduction, recycling, reclamation, separation, or disposal
25 of wastewater, or for the final disposal of residues resulting from the treatment of
26 wastewater, including: treatment or disposal plants; outfall sewers, interceptor
27 sewers, and collector sewers; pumping and ventilating stations, facilities, and works;
28 programs and projects for controlling nonpoint sources of water pollution and for
29 estuarine conservation and management; and other real or personal property and
30 appurtenances incident to their development, use, or operation.

31 [(v)] (EE) "Water Quality Fund" means the Maryland Water Quality Revolving
32 Loan Fund.

33 [(w)] (FF) "Water supply system" has the meaning stated in § 9-201(u) of this
34 title.

35 (GG) "WATERSHED RESTORATION FUND" MEANS THE CHESAPEAKE BAY
36 WATERSHED RESTORATION FUND.

1 9-1604.

2 In addition to the powers set forth elsewhere in this subtitle, but subject to such
3 rules or program directives as the Secretary may from time to time prescribe, the
4 Administration may:

5 (1) Adopt and alter an official seal;

6 (2) Sue and be sued, plead, and be impleaded;

7 (3) Adopt bylaws, rules, and regulations to carry out the provisions of
8 this subtitle;

9 (4) Maintain an office at such place as the Secretary may designate;

10 (5) Employ consultants, accountants, attorneys, financial experts, and
11 other personnel and agents as may be necessary in its judgment, and fix their
12 compensation;

13 (6) Establish regulations, criteria, or guidelines with respect to loans,
14 loan agreements, loan obligations, GRANTS, GRANT AGREEMENTS, AND GRANT
15 OBLIGATIONS;

16 (7) Receive and accept from any source, private or public, contributions,
17 grants, or gifts of money or property;

18 (8) Enter into contracts of any kind, and execute all instruments
19 necessary or convenient with respect to carrying out the powers in this subtitle to
20 accomplish the purposes of the Administration;

21 (9) Make loans, enter into loan agreements, and accept and enforce loan
22 obligations;

23 (10) AWARD GRANTS, ENTER INTO GRANT AGREEMENTS, AND ACCEPT
24 AND ENFORCE GRANT OBLIGATIONS;

25 [(10)] (11) Subject to the prior approval of the Board and the Secretary,
26 issue bonds under this subtitle; and

27 [(11)] (12) Do all acts and things necessary or convenient to carry out the
28 powers granted by this subtitle.

29 9-1605.2.

30 (A) (1) THERE IS A CHESAPEAKE BAY WATERSHED RESTORATION FUND.

31 (2) THE WATERSHED RESTORATION FUND SHALL BE MAINTAINED AND
32 ADMINISTERED BY THE ADMINISTRATION IN ACCORDANCE WITH THE PROVISIONS
33 OF THIS SUBTITLE AND ANY RULES OR PROGRAM DIRECTIVES AS THE SECRETARY OR
34 THE BOARD MAY PRESCRIBE.

1 (3) FOR THE PURPOSES OF THIS SUBTITLE, THERE IS ESTABLISHED AN
2 ENVIRONMENTAL SURCHARGE TO BE PAID BY ANY USER OF A WASTEWATER
3 FACILITY IN THE STATE AS FOLLOWS:

4 (I) FOR EACH RESIDENTIAL DWELLING, THE ENVIRONMENTAL
5 SURCHARGE SHALL BE \$2.50 PER MONTH.

6 (II) FOR A NONRESIDENTIAL USER WITH AN AVERAGE OF 8,000
7 EQUIVALENT DWELLING UNITS OR LESS, THE ENVIRONMENTAL SURCHARGE SHALL
8 BE:

9 1. FOR EACH EQUIVALENT DWELLING UNIT NOT EXCEEDING
10 2,000 EQUIVALENT DWELLING UNITS, \$2.50 PER MONTH FOR EACH EQUIVALENT
11 DWELLING UNIT; AND

12 2. FOR EACH EQUIVALENT DWELLING UNIT OVER 2,000
13 EQUIVALENT DWELLING UNITS AND NOT EXCEEDING 8,000 EQUIVALENT DWELLING
14 UNITS, \$1.25 PER MONTH FOR EACH EQUIVALENT DWELLING UNIT.

15 (III) FOR A UNIT WITH MORE THAN 8,000 EQUIVALENT DWELLING
16 UNITS, THERE WILL BE NO SURCHARGE OTHER THAN THE SURCHARGE IN
17 SUBPARAGRAPH (II) OF THIS PARAGRAPH.

18 (IV) A NONRESIDENTIAL USER OF A WASTEWATER FACILITY IS
19 EXEMPT FROM PAYING THE SURCHARGE IF:

20 1. THE WASTEWATER FACILITY'S AVERAGE ANNUAL
21 EFFLUENT NITROGEN AND PHOSPHORUS CONCENTRATIONS, AS REPORTED IN THE
22 FACILITY'S STATE DISCHARGE MONITORING REPORTS FOR THE PREVIOUS
23 CALENDAR YEAR, HAVE NOT EXCEEDED 3 MILLIGRAMS PER LITER TOTAL NITROGEN
24 AND 0.3 MILLIGRAMS PER LITER TOTAL PHOSPHORUS; AND

25 2. THE OWNER OF THE FACILITY HAS NOT RECEIVED A
26 STATE OR FEDERAL GRANT FOR BIOLOGICAL NUTRIENT REMOVAL OR ENHANCED
27 NUTRIENT REMOVAL FOR THAT FACILITY.

28 (V) SUBJECT TO THE APPROVAL OF THE ADMINISTRATION, A
29 LOCAL GOVERNMENT MAY ESTABLISH A PROGRAM TO EXEMPT FROM THE
30 REQUIREMENTS OF THIS SECTION A RESIDENTIAL DWELLING ABLE TO
31 DEMONSTRATE SUBSTANTIAL FINANCIAL HARDSHIP AS A RESULT OF THE
32 SURCHARGE.

33 (VI) 1. THE SURCHARGE MAY BE ADJUSTED FOR FISCAL YEAR
34 2008 AND SUBSEQUENT YEARS IN ACCORDANCE WITH REGULATIONS ADOPTED
35 UNDER SUBSECTION (G) OF THIS TITLE.

36 2. ANY ADJUSTMENT TO THE AMOUNT OF THE SURCHARGE
37 SHALL BE MADE SUBJECT TO AND IN COMPLIANCE WITH THE REQUIREMENTS OF
38 ANY APPLICABLE BOND RESOLUTION.

1 (VII) 1. THE SURCHARGE SHALL BE COLLECTED BY THE BILLING
2 AUTHORITY FOR THE WASTEWATER FACILITY ON BEHALF OF THE STATE.

3 2. THE BILLING AUTHORITY FOR THE WASTEWATER
4 FACILITY SHALL ADD THE FULL AMOUNT OF THE SURCHARGE TO EACH CUSTOMER'S
5 BILL AND SHALL ESTABLISH A SEGREGATED ACCOUNT FOR THE DEPOSIT OF FUNDS
6 COLLECTED UNDER THIS SUBTITLE.

7 3. A. THE ADMINISTRATION SHALL DETERMINE THE
8 METHOD OF COLLECTION OF THE SURCHARGE FROM THE WASTEWATER FACILITY.

9 B. THE COLLECTIONS SHALL ACCRUE TO THE FUND.

10 (VIII) FOR A WASTEWATER FACILITY WITHOUT A BILLING
11 AUTHORITY, THE ADMINISTRATION MAY COLLECT THE SURCHARGE FROM THE
12 FACILITY OWNER.

13 (B) (1) THE WATERSHED RESTORATION FUND IS A SPECIAL, CONTINUING,
14 NONLAPSING FUND THAT IS NOT SUBJECT TO § 7-302 OF THE STATE FINANCE AND
15 PROCUREMENT ARTICLE.

16 (2) THE WATERSHED RESTORATION FUND SHALL BE AVAILABLE FOR
17 THE PURPOSE OF PROVIDING FINANCIAL ASSISTANCE IN ACCORDANCE WITH THE
18 PROVISIONS OF THIS SUBTITLE, FOR ELIGIBLE COSTS OF PROJECTS RELATING TO
19 PLANNING, DESIGN, CONSTRUCTION, AND UPGRADES OF WASTEWATER FACILITIES
20 TO ACHIEVE ENHANCED NUTRIENT REMOVAL AS REQUIRED BY THE CONDITIONS OF
21 A GRANT AGREEMENT AND A DISCHARGE PERMIT.

22 (3) SUBJECT TO THE PROVISIONS OF ANY APPLICABLE BOND
23 RESOLUTION REGARDING THE HOLDING OR APPLICATION OF AMOUNTS IN THE
24 WATERSHED RESTORATION FUND, THE TREASURER SHALL SEPARATELY HOLD, AND
25 THE COMPTROLLER SHALL ACCOUNT FOR, THE WATERSHED RESTORATION FUND.

26 (4) SUBJECT TO THE PROVISIONS OF ANY APPLICABLE BOND
27 RESOLUTION GOVERNING THE INVESTMENT OF AMOUNTS IN THE WATERSHED
28 RESTORATION FUND, THE WATERSHED RESTORATION FUND SHALL BE INVESTED
29 AND REINVESTED IN THE SAME MANNER AS OTHER STATE FUNDS.

30 (5) ANY INVESTMENT EARNINGS SHALL BE RETAINED TO THE CREDIT
31 OF THE WATERSHED RESTORATION FUND.

32 (6) THE WATERSHED RESTORATION FUND SHALL BE SUBJECT TO AUDIT
33 ONCE EVERY 2 YEARS BY THE OFFICE OF LEGISLATIVE AUDITS AS PROVIDED FOR IN
34 § 2-1220 OF THE STATE GOVERNMENT ARTICLE.

35 (7) THE ADMINISTRATION SHALL OPERATE THE WATERSHED
36 RESTORATION FUND IN ACCORDANCE WITH §§ 9-1616 THROUGH 9-1621 OF THIS
37 SUBTITLE.

1 (8) THE DEPARTMENT SHALL DETERMINE THE PRIORITY RANKING OF
2 PROJECTS.

3 (C) THERE SHALL BE DEPOSITED IN THE WATERSHED RESTORATION FUND:

4 (1) FUNDS RECEIVED FROM THE ENVIRONMENTAL SURCHARGE;

5 (2) NET PROCEEDS OF BONDS ISSUED BY THE ADMINISTRATION;

6 (3) INTEREST OR OTHER INCOME EARNED ON THE INVESTMENT OF
7 MONEY IN THE WATERSHED RESTORATION FUND; AND

8 (4) ANY ADDITIONAL MONEY MADE AVAILABLE FROM ANY SOURCES,
9 PUBLIC OR PRIVATE, FOR THE PURPOSES FOR WHICH THE WATERSHED
10 RESTORATION FUND HAS BEEN ESTABLISHED.

11 (D) THE ADMINISTRATION MAY ESTABLISH ACCOUNTS AND SUBACCOUNTS
12 WITHIN THE WATERSHED RESTORATION FUND TO:

13 (1) EFFECTUATE THE PURPOSES OF THIS SUBTITLE;

14 (2) COMPLY WITH THE PROVISIONS OF ANY BOND RESOLUTION;

15 (3) MEET THE REQUIREMENTS OF ANY FEDERAL OR STATE LAW OR OF
16 ANY GRANT OR AWARD TO THE WATERSHED RESTORATION FUND; AND

17 (4) MEET ANY RULES OR PROGRAM DIRECTIVES ESTABLISHED BY THE
18 SECRETARY OR THE BOARD.

19 (E) (1) IN THIS SUBSECTION, "ELIGIBLE COSTS" MEANS THE ADDITIONAL
20 COSTS THAT WOULD BE ATTRIBUTABLE TO UPGRADING A WASTEWATER FACILITY
21 FROM BIOLOGICAL NUTRIENT REMOVAL TO ENHANCED NUTRIENT REMOVAL, AS
22 DETERMINED BY THE DEPARTMENT.

23 (2) FUNDS IN THE WATERSHED RESTORATION FUND MAY BE USED
24 ONLY:

25 (I) TO AWARD GRANTS FOR UP TO 100% OF ELIGIBLE COSTS OF
26 PROJECTS RELATING TO PLANNING, DESIGN, CONSTRUCTION, AND UPGRADE OF A
27 WASTEWATER FACILITY WITH A DESIGN CAPACITY OF 500,000 GALLONS OR MORE
28 PER DAY TO ACHIEVE ENHANCED NUTRIENT REMOVAL AS REQUIRED BY THE
29 CONDITIONS OF A GRANT AGREEMENT AND A DISCHARGE PERMIT IN ACCORDANCE
30 WITH PARAGRAPH (3) OF THIS SUBSECTION.

31 (II) FOR A PORTION OF THE OPERATION AND MAINTENANCE COSTS
32 RELATED TO THE ENHANCED NUTRIENT REMOVAL TECHNOLOGY, WHICH MAY NOT
33 EXCEED 10% OF THE TOTAL ENVIRONMENTAL SURCHARGE COLLECTED BY THE
34 ADMINISTRATION ANNUALLY;

35 (III) AS A SOURCE OF REVENUE OR SECURITY FOR THE PAYMENT OF
36 PRINCIPAL AND INTEREST ON BONDS ISSUED BY THE ADMINISTRATION IF THE

1 PROCEEDS OF THE SALE OF THE BONDS WILL BE DEPOSITED IN THE WATERSHED
2 RESTORATION FUND;

3 (IV) TO EARN INTEREST ON WATERSHED RESTORATION FUND
4 ACCOUNTS;

5 (V) FOR THE REASONABLE COSTS OF ADMINISTERING THE
6 WATERSHED RESTORATION FUND, WHICH MAY NOT EXCEED 1.5% OF THE TOTAL
7 ENVIRONMENTAL SURCHARGE COLLECTED BY THE ADMINISTRATION ANNUALLY;

8 (VI) FOR THE REASONABLE ADMINISTRATIVE COSTS INCURRED BY
9 A BILLING AUTHORITY FOR A WASTEWATER FACILITY COLLECTING THE
10 ENVIRONMENTAL SURCHARGE, THE ADMINISTRATIVE COSTS MAY BE RETAINED BY
11 THE BILLING AUTHORITY IN AN AMOUNT NOT TO EXCEED 3% OF THE TOTAL
12 ENVIRONMENTAL SURCHARGE COLLECTED BY THE BILLING AUTHORITY;

13 (VII) FOR FUTURE UPGRADES OF WASTEWATER FACILITIES WITH A
14 DESIGN CAPACITY OF LESS THAN 500,000 GALLONS PER DAY, IN ACCORDANCE WITH
15 PARAGRAPH (4) OF THIS SUBSECTION; AND

16 (VIII) FOR COSTS ASSOCIATED WITH THE ISSUANCE OF BONDS.

17 (3) THE GRANT AGREEMENT AND DISCHARGE PERMIT SHALL REQUIRE
18 AN OWNER OF A WASTEWATER FACILITY TO OPERATE THE ENHANCED NUTRIENT
19 REMOVAL FACILITY IN A MANNER THAT OPTIMIZES THE NUTRIENT REMOVAL
20 CAPABILITY OF THE FACILITY.

21 (4) (I) AN UPGRADE OF A WASTEWATER FACILITY SHALL BE
22 COMMENCED ONLY ON COMPLETION OF ENHANCED NUTRIENT REMOVAL
23 UPGRADES AT WASTEWATER FACILITIES WITH A DESIGN CAPACITY OF 500,000
24 GALLONS OR MORE PER DAY.

25 (II) THE ELIGIBILITY OF A PROJECT SHALL BE DETERMINED BY
26 THE DEPARTMENT BASED ON CRITERIA ESTABLISHED IN REGULATIONS ADOPTED BY
27 THE DEPARTMENT, IN ACCORDANCE WITH SUBSECTION (G) OF THIS SECTION.

28 (F) (1) THERE IS A WATERSHED RESTORATION FUND ADVISORY
29 COMMITTEE.

30 (2) THE COMMITTEE CONSISTS OF THE FOLLOWING MEMBERS:

31 (I) THE SECRETARIES OF THE ENVIRONMENT, NATURAL
32 RESOURCES, AND BUDGET AND MANAGEMENT, OR THEIR DESIGNEES;

33 (II) ONE MEMBER OF THE SENATE, APPOINTED BY THE PRESIDENT
34 OF THE SENATE;

35 (III) ONE MEMBER OF THE HOUSE OF DELEGATES, APPOINTED BY
36 THE SPEAKER OF THE HOUSE OF DELEGATES;

1 (IV) TWO PERSONS REPRESENTING PUBLICLY OWNED
2 WASTEWATER FACILITIES, APPOINTED BY THE GOVERNOR;

3 (V) TWO PERSONS REPRESENTING ENVIRONMENTAL
4 ORGANIZATIONS, APPOINTED BY THE GOVERNOR;

5 (VI) ONE PERSON EACH FROM THE MARYLAND ASSOCIATION OF
6 COUNTIES AND THE MARYLAND MUNICIPAL LEAGUE, APPOINTED BY THE
7 GOVERNOR;

8 (VII) TWO PERSONS REPRESENTING THE BUSINESS COMMUNITY,
9 APPOINTED BY THE GOVERNOR; AND

10 (VIII) TWO PERSONS REPRESENTING LOCAL HEALTH DEPARTMENTS
11 WITH EXPERTISE IN ON-SITE SEWAGE DISPOSAL SYSTEMS, APPOINTED BY THE
12 GOVERNOR.

13 (3) THE GOVERNOR SHALL APPOINT THE CHAIRMAN OF THE
14 COMMITTEE FROM THE DESIGNATED MEMBERS OF THE COMMITTEE.

15 (4) THE COMMITTEE MAY CONSULT WITH ANY STAKEHOLDER GROUP AS
16 IT DEEMS NECESSARY.

17 (5) (I) THE TERM OF A MEMBER IS 4 YEARS.

18 (II) A MEMBER CONTINUES TO SERVE UNTIL A SUCCESSOR IS
19 APPOINTED.

20 (III) THE TERMS OF THE MEMBERS APPOINTED BY THE GOVERNOR
21 ARE STAGGERED AS REQUIRED BY THE TERMS PROVIDED FOR MEMBERS OF THE
22 COMMITTEE ON OCTOBER 1, 2004.

23 (IV) AT THE END OF A TERM, A MEMBER CONTINUES TO SERVE
24 UNTIL A SUCCESSOR IS APPOINTED AND QUALIFIES.

25 (V) A MEMBER WHO IS APPOINTED AFTER A TERM HAS BEGUN
26 SERVES ONLY FOR THE REST OF THE TERM AND UNTIL A SUCCESSOR IS APPOINTED
27 AND QUALIFIES.

28 (6) THE COMMITTEE SHALL:

29 (I) PERFORM AN ANALYSIS OF THE COST OF NUTRIENT REMOVAL
30 FROM WASTEWATER FACILITIES;

31 (II) IDENTIFY ADDITIONAL SOURCES FOR FUNDING THE
32 WATERSHED RESTORATION FUND, INCLUDING A MEANS OF ESTABLISHING A
33 SIMILAR IMPACT FEE FOR ON-SITE SEWAGE DISPOSAL SYSTEM OWNERS;

34 (III) MAKE RECOMMENDATIONS TO IMPROVE THE EFFECTIVENESS
35 OF THE WATERSHED RESTORATION FUND IN REDUCING NUTRIENT LOADINGS TO
36 THE WATERS OF THE STATE;

1 (IV) MAKE RECOMMENDATIONS REGARDING THE APPROPRIATE
2 ENVIRONMENTAL SURCHARGE TO BE ASSESSED IN FISCAL YEAR 2008 AND
3 SUBSEQUENT YEARS AS NECESSARY TO MEET THE FINANCING NEEDS OF THE
4 WATERSHED RESTORATION FUND;

5 (V) ADVISE THE SECRETARY CONCERNING THE ADOPTION OF
6 REGULATIONS AS DESCRIBED IN SUBSECTION (G) OF THIS SECTION; AND

7 (VI) BEGINNING JANUARY 1, 2006, AND EVERY 2 YEARS
8 THEREAFTER, REPORT TO THE GOVERNOR AND, SUBJECT TO § 2-1246 OF THE STATE
9 GOVERNMENT ARTICLE, THE GENERAL ASSEMBLY ON ITS FINDINGS AND
10 RECOMMENDATIONS.

11 (7) MEMBERS OF THE COMMITTEE:

12 (I) MAY NOT RECEIVE COMPENSATION; BUT

13 (II) ARE ENTITLED TO REIMBURSEMENT FOR EXPENSES UNDER
14 THE STANDARD STATE TRAVEL REGULATIONS, AS PROVIDED IN THE STATE BUDGET.

15 (8) THE DEPARTMENT OF THE ENVIRONMENT, DEPARTMENT OF
16 NATURAL RESOURCES, AND DEPARTMENT OF BUDGET AND MANAGEMENT SHALL
17 PROVIDE STAFF SUPPORT FOR THE COMMITTEE.

18 (G) (1) THE DEPARTMENT SHALL ADOPT ANY REGULATIONS THAT ARE
19 NECESSARY OR APPROPRIATE TO CARRY OUT THE PROVISIONS OF THIS SUBTITLE.

20 (2) THE DEPARTMENT, IN CONSULTATION WITH THE WATERSHED FUND
21 ADVISORY COMMITTEE, MAY ADOPT REGULATIONS THAT ESTABLISH THE AMOUNT,
22 METHOD OF CALCULATION, AND TYPES OF ENVIRONMENTAL SURCHARGES TO BE
23 DEPOSITED IN THE WATERSHED RESTORATION FUND FOR FISCAL YEAR 2008 AND
24 SUBSEQUENT YEARS.

25 9-1611.

26 (a) Bonds may be secured by a trust agreement by and between the
27 Administration and a corporate trustee, which may be any trust company or bank
28 having trust powers, within or without the State. Such trust agreement may pledge or
29 assign all or any part of the revenues or corpus of the Water Quality [Fund or] FUND,
30 Drinking Water Loan Fund, OR WATERSHED RESTORATION FUND, or any account
31 [therein] WITHIN THESE FUNDS, and may pledge or assign or grant a lien on or
32 security interest in any loan agreement or loan obligation. Any such trust agreement
33 or resolution authorizing the issuance of bonds may contain such provisions for the
34 protection and enforcement of the rights and remedies of the bondholders as may be
35 deemed reasonable and proper, including covenants setting forth the duties of the
36 Administration in relation to the making, administration and enforcement of loans
37 and the custody, safeguarding and application of moneys. Such trust agreement may
38 set forth the rights and remedies of the bondholders and of the trustee and may
39 restrict the individual right of action by bondholders. In addition to the foregoing,
40 such trust agreement may contain such other provisions as the Director may deem

1 reasonable and proper for the security of the bondholders, including, without
2 limitation, covenants pertaining to the issuance of additional parity bonds upon
3 conditions stated therein consistent with the requirements of this subtitle.

4 (b) The proceeds of the sale of bonds shall be disbursed in such manner and
5 under such restrictions, if any, as may be provided in such trust agreement.

6 (c) (1) The revenues and moneys designated as security for bonds shall be
7 set aside at such regular intervals as may be provided in the bond resolution in a
8 special account in the Water Quality Fund, if the net sale proceeds will be deposited in
9 the Water Quality Fund, [or] the Drinking Water Loan Fund, if the net sale proceeds
10 will be deposited in the Drinking Water Loan Fund, OR THE WATERSHED
11 RESTORATION FUND, IF THE NET SALE PROCEEDS WILL BE DEPOSITED IN THE
12 WATERSHED RESTORATION FUND which is pledged to, and charged with, the
13 payment of:

14 (i) The interest upon such bonds as such interest falls due;

15 (ii) The principal of such bonds as it falls due;

16 (iii) The necessary charges of the trustee, bond registrar, and paying
17 agents; and

18 (iv) The redemption price or purchase price of bonds retired by call
19 or purchase as provided in the bond resolution or trust agreement.

20 (2) Any amounts set aside in such special account which are not needed
21 to provide for the payment of the items included under paragraph (1) of this
22 subsection may be used for any other lawful purpose, to the extent provided in the
23 bond resolution. Such pledge shall be valid and binding from the time when the
24 pledge is made. Such revenues or other moneys so pledged and thereafter received by
25 the Administration shall immediately be subject to the lien of such pledge without
26 any physical delivery thereof or further act, and the lien of any such pledge shall be
27 valid and binding as against all parties having any claims of any kind in tort,
28 contract, or otherwise against the Administration or the Water Quality Fund, [or] the
29 Drinking Water Loan Fund, OR THE WATERSHED RESTORATION FUND, irrespective of
30 whether such parties have notice thereof. Neither the bond resolution nor any trust
31 agreement by which a pledge is created need be filed or recorded except in the records
32 of the Administration, any public general or public local law to the contrary
33 notwithstanding.

34 (d) Any net earnings of the Administration, beyond that necessary for the
35 retirement of bonds or to implement the public purposes or programs of the
36 Administration, shall not inure to the benefit of any person, other than the State of
37 Maryland for use to accomplish the purposes of this subtitle.

38 9-1616.

39 The Administration shall not be required to give any bond as security for costs,
40 supersedeas, or any other security in any suit or action brought by or against it, or in

1 proceedings to which it may be a party, in any court of this State, and the
2 Administration shall have the remedies of appeal of whatever kind to all courts
3 without bonds, supersedeas, or security of any kind. No builder's, materialman's,
4 contractor's, laborer's, or mechanic's liens of any kind or character shall ever attach to
5 or become a lien upon the Water Quality [Fund or] FUND, the Drinking Water Loan
6 Fund, OR THE WATERSHED RESTORATION FUND or any property, real or personal,
7 belonging to the Administration and no assignment of wages shall be binding upon or
8 recognized by the Administration.

9 9-1617.

10 The Administration shall make provision for a system of financial accounting,
11 controls, audits, and reports in accordance with generally accepted principles of
12 governmental accounting. All accounting systems and records, auditing procedures
13 and standards, and financial reporting for the Water Quality Fund, THE DRINKING
14 WATER LOAN FUND, AND THE WATERSHED RESTORATION FUND shall conform to the
15 requirements of Title VI of the Federal Water Pollution Control Act, THE FEDERAL
16 SAFE DRINKING WATER ACT, AND THE CHESAPEAKE BAY WATERSHED RESTORATION
17 FUND ACT, AS APPLICABLE and, to the extent not inconsistent therewith, generally
18 accepted principles of governmental accounting. As soon as practical after the closing
19 of the fiscal year, an audit shall be made of the financial books, records, and accounts
20 of the Administration. The audit shall be made by independent certified public
21 accountants, selected by the Administration, and licensed to practice in the State as
22 auditors. The auditors may not have a personal interest either directly or indirectly in
23 the fiscal affairs of the Administration. They shall be experienced and qualified in the
24 accounting and auditing of public bodies. The report of audit shall be prepared in
25 accordance with generally accepted auditing principles and point out any
26 irregularities found to exist. The auditors shall report to the Secretary the results of
27 their examination, including their unqualified opinion on the presentation of the
28 financial positions of the Water Quality [Fund and] FUND, the Drinking Water Loan
29 Fund, AND THE WATERSHED RESTORATION FUND, and the results of the
30 Administration's financial operations. If they are unable to express an unqualified
31 opinion they shall state and explain in detail the reasons for their qualifications,
32 disclaimer, or opinion including recommendations necessary to make possible future
33 unqualified opinions.

34 SECTION 2. AND BE IT FURTHER ENACTED, That the terms of the members
35 of the Chesapeake Bay Watershed Restoration Fund Advisory Committee, appointed
36 by the Governor, shall expire as follows:

- 37 (1) four members in 2005;
38 (2) four members in 2006; and
39 (3) four members in 2007.

40 SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect
41 July 1, 2004.